



Supporting Choice and Self-Determination in North Carolina: A Guide



Welcome

Welcome to **Supporting Choice and Self-Determination in North Carolina**. This guide has information about general, financial, legal, and healthcare supports available to promote your choice and self-determination. These options may be used in different combinations, depending on your situation. They may be used in place of or together with guardianship.

Tips for Using This Booklet

- Each topic listed in the table of contents contains a definition, examples, links to resources, and steps to take to get started using that support option.
- You may wish to print the entire booklet as a reference when providing information for your personal use or to individuals and families. Or, you may wish to print only the specific topic sections needed for your personal use or by individuals and families.
- Resources are provided in several ways. If you are viewing the document online, you can click on the live/underlined links, or you can copy and paste the [blue web address](#) provided (in parentheses) into your browser's address bar. A web address usually begins with "http://".
- To access the resource links when viewing a paper copy of this document, type the web address provided into your browser address.
- If you want to talk to somebody, or need help thinking about any of these options, you can call Disability Rights of North Carolina at 929-856-2195 or Legal Aid of North Carolina at 1-866-219-5262.
- If you would like to provide feedback about this booklet, please complete [this short survey](https://forms.office.com/r/xKnejPi7d).



Rethinking Guardianship's mission is to promote less restrictive alternatives to guardianship and create long-term changes in the state's guardianship system. We are a diverse group committed to improving life for people who are experiencing guardianship or who could benefit from less restrictive alternatives. We are self-advocates and their family members, policymakers, legislators, university faculty, and staff from nonprofits, businesses, and associations.

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To learn more, visit <https://rethinkingguardianshipnc.org/>
or email us at rethinkingguardianshipnc@email.unc.edu

This guide was last updated in April 2022 and may be produced in part or in full for use by individuals, families, groups, organizations, and others interested in promoting least restrictive alternatives to guardianship for adults of all ages.

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If you would like to provide feedback about this booklet, please complete this short survey (<https://forms.office.com/r/xKniejPi7d>).

Supported Decision-Making: Informal and Formal

Everyone needs help making decisions. Supported Decision-Making (SDM) is a model for making choices with the help of others. SDM helps people with disabilities make decisions. You are the Decision-Maker. You may get help and advice from your Supporters. Anyone can use SDM. Supported Decision-Making can be informal or formal. You are at the center of the process.

When Might You Want Support?

There are many areas where you might want support. Consider the following:

Education:

- Do you know what resources are available in your school?
- Do you need help applying to college?

Work:

- Do you need help finding a job?
- Do you know how to request support at work?

Life Plan:

- Do you know where you want to live?
- Do you have a plan for emergencies?

Healthcare:

- Do you need help making doctor's appointments?
- Do you need help with your medicines?

Finances:

- Do you need help understanding your bills?
- Do you need help buying items?

Legal Matters:

- Do you understand your rights?
- Do you know what to do if you think someone is violating your rights?

These are just examples of where you might want support. Some of these may not apply to you. There may also be things you want help with that are not listed above.

There may be choices that you feel like making by yourself. There may be other choices where you want a little bit or a lot of support. It is important to know how much help you want, and where.

Choosing Your Supporters

Do you think you could use support? Think about whom you want as a Supporter. Your Supporters can be anyone. It could be a family member, a friend, a professional, or anyone else from whom you want help. Think about people you have a trusting relationship with.

You get to choose how you want to be supported. For example, you may want a lawyer to support you in legal matters and a family member to help with your life plan. Maybe your aunt makes good choices with money - she might be a good person to be a Supporter!

Once you've picked whom you want as your Supporters, ask if they will help you make choices. Tell them how you would like them to help you.



It is important they know what is involved so they can best support you. Remember, you can change your mind about whom you want to help you. Your Supporters can change their minds, too.

Informal and Formal Supports

Asking for advice is a regular part of life. No one has all the answers. Your family, friends, or community Supporters can help you make choices. This can be done informally or formally. Only you know what will work best for you.

The level of support that you want will guide you. Informal support is a good choice if you feel confident making choices. It is also good if you only want a little bit of help. Make sure to tell your Supporter how much help you want.

You may want more formal support. A Supported Decision-Making Agreement (SDMA) does this. An SDMA is a written agreement between you (the Decision-Maker) and your Supporter. It states how your Supporter will help you make choices.

Supported Decision-Making Agreements

Supported Decision-Making Agreements (SDMAs) are an example of formal support. There is no “right” way to create a SDMA. You can create what works best for you. Separate SDMAs should be created for every area you want help making choices in. An SDMA should include:

- Your Supporters
- How each Supporter will help
- Who will be a backup Supporter if yours is not available
- A way to handle situations when you and your Supporter don't agree

You and your Supporter can make this agreement together. In North Carolina there is no required layout for a Supported Decision-Making Agreement.

Resources

Here are examples of what you might want in your SDMA (<http://www.supporteddecisionmaking.org/sites/default/files/sample-supported-decision-making-model-agreements.pdf>).

You can find more resources about Supported Decision-Making here (<http://www.supporteddecisionmaking.org/>).

Getting Started with Supported Decision-Making

Step 1. Decide what types of decisions you want help with.

Step 2. Choose your supporter(s) and talk to them.

Step 3. Decide if you would like to make a formal plan for their support with your decision-making, or if you would like the arrangement to be informal.

Step 4. Look at examples of formal and informal Supported Decision-Making Agreements (see Resources, above).

Foster Care 18 to 21

North Carolina has a Foster Care 18 to 21 program. It gives people aged 18 to 21 foster care services. Young adults can be in this program if they turned 18 while in foster care. They must also be one of the following:

- Enrolled in high school (or equivalent program)
- Enrolled in college or vocational education
- Part of a program to promote having a job
- Working at least 80 hours per month, or
- Unable to complete the above requirements due to a medical condition or a disability



Pros of NC Foster Care 18 to 21

North Carolina's Foster Care 18 to 21 program gives young adults help and support. This lets them move towards independence while providing a cushion of support.

Joining the Program

Young adults join the program by signing a Voluntary Placement Agreement (VPA). Then, the court holds a first review hearing. The court may have more hearings. These will monitor the progress of the young adult.

The County develops a plan with the young adult. This plan is called the Transitional Living Plan. This plan says what will help the young adult. It includes goals, services, and independent living skills.

A team of adults will also help the young adult. They help create goals and find services. This team is known as a Transitional Support Team (TST). Young adults in Foster Care 18 to 21 have monthly check-ins.

Foster Care 18 to 21 Placements

Young adults can be placed out-of-county or out-of-state. Placements may include:

Foster Home/Facility

- Family Foster Home
- Therapeutic Foster Home
- Group Home

College/University Dormitory

- On-Campus Dormitory
- On-Campus Apartment
- College Co-Op

Semi-Supervised Independent Living Arrangement

- Shared Apartment/Townhome/House
- Relative or Family Friend
- Host Home

Foster Care Maintenance Payments

Young adults in Foster Care 18 to 21 can get monthly foster care payments. These payments are the board rate. They may be made directly to the young adult. They can also go to a rental agency or landlord. They could also go to a relative or a family friend. They can be used for the young adult's expenses. Young adults who have Supplemental Security Income, Education and Training Vouchers, and NC Reach can still get monthly foster care payments.

Resources

For more on Foster Care 18 to 21, go to the North Carolina Department of Health and Human Services' [website](https://www.ncdhhs.gov/assistance/state-guardianship/independent-living-services-for-foster-children) (<https://www.ncdhhs.gov/assistance/state-guardianship/independent-living-services-for-foster-children>).

North Carolina has other services for young adults. There is NC LINKS, which provides independent living services for young adults in foster care. There is also the NC Reach Program. Contact your county Department of Social Services (DSS) to learn more.

You can find the [Department of Social Services](https://www.ncdhhs.gov/divisions/social-services/local-dss-directory) directory in list and map form (<https://www.ncdhhs.gov/divisions/social-services/local-dss-directory>).

Getting Started with Foster Care 18-21

Step 1. Determine if you qualify for Foster Care 18-21

Step 2. Identify what County you live in

Step 3. Find your County's Department of Social Services using the list or map at the Department of Social Services Directory (see Resources, above).

Step 4. Call the main number or, if it's listed, the number for the Foster Care Program.

Simple Financial Tools

Simple financial tools can help you manage your money. They can also let you help someone manage theirs. These simple tools may be useful options instead of guardianship.

Joint Bank Account

A joint bank account is like a regular bank account. It allows more than one person to manage it. This means two or more people may own the account. They can add money or use the money in it.

This type of account can be good for parents and their children, or adults and their parents. It works best for people with a strong, trusting relationship.

Pros of a Joint Bank Account

- Each account owner can see how money is spent. This is useful if either account owner needs extra help managing money.
- A joint bank account may help detect fraud quickly. Both owners can see online banking account views.
- Each account owner can transfer money to a joint account.
- Parents can help their adult children manage their money.
- Adult children can help their aging parents manage their money.

A joint bank account is a great way to get help managing your money. Here are some things to know about a joint bank account:

- Owners cannot control each other's spending. It is possible for one person to use all the money in the account.
- One account owner could overdraw the account. This may result in fees.
- Both owners can see spending from the account.

Setting Up a Joint Bank Account

Does a joint bank account sound like a good fit for you? If yes, talk with the person you want to share a bank account with. Discuss your options together. Joint bank accounts work best for people with solid, trusting relationships.

Opening a joint bank account is similar to opening a personal account. You should contact your bank. You must choose a "joint account" during the setup process. You will need to give the bank personal info for all account holders. This may include addresses, dates of birth, and Social Security numbers.

Questions about Joint Bank Accounts?

If you have questions about joint bank accounts, talk to someone at your bank. You can learn more about their features and whether they are a good option for you.

Additional Tools

Some other tools may be helpful when managing money.

Credit Unions and Banking Services

- These provide services to people who may need help managing their money.

Direct Deposit and Payments

- This process deposits benefits or payments straight into a person's bank account. These deposits may include regular income, government benefits, or other payments.

Ceiling Limit

- This tool creates a limit on how much someone can take out of a bank account. A person can take out funds up to a specific limit. The person cannot take out more than the set amount.

Credit and Debit Cards

- You can set up credit and debit cards with a spending limit. Spending limits can be used to manage money. It may help a person stick to a budget.

Getting Started with Simple Financial Tools

Step 1. Decide if you need support managing your personal money affairs or if you are at risk of fraud.

Step 2. Choose who you would like to support you with your personal money affairs.

Step 3. Talk to that person about the support you would like.

Step 4. Talk to your local bank or credit union to learn about other options.

ABLE Accounts

ABLE accounts are tax-advantaged savings and investment accounts. They can help people and families pay for disability-related expenses. They can also help save for the future.

Any eligible person (the account owner) can open an ABLE account. If a person cannot create their own, one may be created for them. You can visit the website for the ABLE program you choose. Check the ABLE program for details on who can open an account.

Who Can Have an ABLE Account?

There are rules for who is eligible. Do you have a disability that was present before the age of 26? You are likely eligible.

Is an ABLE Account Right for Me?

Do you want to save for disability-related expenses? An ABLE account might help. It lets you save while keeping needs-based public benefits. (This may be Supplemental Security Income (SSI) and/or Medicaid benefits.) ABLE accounts with \$100,000 or less do not count for your SSI resource limit. This way, you'll continue to be eligible for needs-based benefits.

The account owner can put up to \$16,000 (as of January 2022) in their account each year. This limit may increase if they work and earn income. Other people can put money in, too.

ABLE Accounts Can Help Pay For:

- ✓ Education
- ✓ Transportation
- ✓ Housing
- ✓ Health and Wellness
- ✓ Financial Management
- ✓ Legal Fees
- ✓ Assistive Technology
- ✓ and more

Compare ABLE Plans

There are different kinds of ABLE accounts. They are available nationwide. Most states accept people living out-of-state. Each plan is a little different.

Here are some things to think about:

- What info is needed to open the account?
- Is there a fee to open an account?
- What are the investment options?
- Is there a debit card available with the program?



North Carolina ABLE Account

A North Carolina ABLE account is just one option. Setting up a North Carolina ABLE account is fast and easy.

To set up an NC ABLE account, you need basic info. This includes your name, address, date of birth, and your Social Security number.

Before opening an account, be sure to look at the different investment options.

Resources

ABLE National Resource Center (<https://www.ablenrc.org/>)

Am I Eligible (<https://www.ablenrc.org/get-started/am-i-eligible/>)

Compare State Plans (<https://www.ablenrc.org/compare-states/>)

Choosing the Right Program (<https://www.ablenrc.org/wp-content/uploads/2019/11/Choosing-the-Right-ABLE-Program.pdf>)

Tax Benefits (<https://www.irs.gov/government-entities/federal-state-local-governments/able-accounts-tax-benefit-for-people-with-disabilities>)

North Carolina

North Carolina ABLE website (<https://savewithable.com/nc/home.html>)

Checklist

(https://files.nc.gov/nctreasurer/documents/files/NCABLE/ncable_checklist.pdf)

Investment Options

(<https://savewithable.com/nc/home/investment-options.html>)

Getting Started with an ABLE Account

Step 1. Determine if you are eligible to open an ABLE Account. Begin with the document "Am I Eligible" (see Resources, above).

Step 2. Determine if an ABLE Account is right for you. Begin with the document "Choosing the Right ABLE Program (see Resources, above).

Step 3. Choose the plan that's right for you. Begin with the document "Select a State Program" (see Resources, above). You can compare different plans (see Resources, above).

Step 4. Complete the online enrollment for the plan you choose.

Representative Payee for Social Security Benefits

Social Security has a Representative Payment Program. This program helps people manage their benefits. It is meant for people who cannot manage their income payments. This includes Social Security and Supplemental Security Income (SSI) payments. The Social Security Administration (SSA) will choose a representative payee (payee) who will manage payments for the beneficiary. A beneficiary is a person that gets benefits.

What Is a Payee?

A payee is a person or organization that helps someone manage their benefits. They are chosen by SSA. SSA first looks for a friend or family member to serve as a payee. If one is not able, SSA chooses an organization.

What Does a Payee Do?

A payee uses benefits to pay for the needs of the beneficiary. They should save any benefits that are not used. The payee uses the payments in the best interest of the beneficiary. A payee must keep a record of expenses. Payees have to apply and are chosen by SSA.

How Are Payees Chosen?

Most minor children and adults subject to guardianship have payees. SSA chooses a payee if someone cannot manage their benefits. SSA will gather facts to decide if someone needs a payee. There will be an investigation. Then, SSA will make a choice.

You can appeal the choice if you do not think you need a payee. You have 60 days to contact SSA. You can also appeal who SSA has chosen as your payee.

You may choose up to three people in advance to serve as your payee. If the need arises, one of these people will be chosen.

Resources

Social Security Administration website (<https://secure.ssa.gov/ICON/main.jsp>)

SSA main Representative Payee website (<https://www.ssa.gov/payee/>)

Frequently Asked Questions (FAQ) pages for beneficiaries and payees (<https://www.ssa.gov/payee/faqrep.htm>).

Getting Started with a Representative Payee

Step 1. Determine if you receive Social Security benefits.

Step 2. Determine if you need help managing your personal money affairs.

Step 3. If you do not currently need help, but think you may need help in the future, choose up to three people who will help you should the need arise.

Step 4. Find your local Social Security Office. You can do this several ways. First, determine your Zip Code. Then, either call 1-800-772-1213 or go to the Social Security Administration website (see Resources, above), type your Zip Code into the box labeled "ZIP," and press the "Locate" button.

Fiduciary for Veteran Benefits

The Veterans Affairs (VA) Fiduciary Program protects veterans and other beneficiaries. A beneficiary is someone who gets benefits. The program is for people who are not able to manage their benefits. The VA will decide if someone needs a fiduciary.

A fiduciary is someone that helps another person manage their benefits. Usually, a family member or friend will serve. The VA will make sure they can serve. If a family member or a friend is not able to, the VA will choose a fiduciary. The VA will choose either a person or an organization.

Info for Beneficiaries

If you cannot manage your VA benefits, the VA will choose a fiduciary to help you. First, the VA will try to choose someone that you pick. The VA will make sure they meet the rules and can serve. When looking for someone to serve, these people may be considered:

- A spouse or family member
- Someone the court chooses
- Another interested party, or
- A professional

You have the right to appeal the VA's choice to give you a fiduciary. You also have the right to appeal whom the VA chooses.

If you do not agree with the VA on either of these points, you may:

- Appeal to the Board of Veterans' Appeals (Board). Tell them you do not agree with the choice. Ask the Board to review it.
- Give the VA new info. New info may lead them to change their choice.

Info for Fiduciaries

Do you want to help a family member or friend manage their benefits? Send a request to the VA Regional Office nearest you. The request should have the beneficiary's name and their VA file number. It should also have your name and contact info. Fiduciaries must use the benefits funds for the daily needs of the beneficiary. They should never borrow, loan, or gift funds that belong to the beneficiary.

Resources

The U.S. Department of Veterans Affairs [website](https://www.benefits.va.gov/fiduciary/)
(<https://www.benefits.va.gov/fiduciary/>)

There are also pages for [beneficiaries](https://www.benefits.va.gov/fiduciary/beneficiary.asp)
(<https://www.benefits.va.gov/fiduciary/beneficiary.asp>) and [fiduciaries](https://www.benefits.va.gov/fiduciary/fiduciary.asp)
(<https://www.benefits.va.gov/fiduciary/fiduciary.asp>).

[Appointment website](https://app.waitwhile.com/book/vabenefits/service) (<https://app.waitwhile.com/book/vabenefits/service>)

Getting Started with a Fiduciary for Veteran Benefits

Step 1. Determine if you receive veteran benefits.

Step 2. Determine if you need help managing your personal money affairs.

Step 3. Contact the North Carolina Veterans Benefits Administration Regional Office in Winston-Salem, NC by calling 800-827-1000 or schedule an appointment online at the appointment website (see Resources, above).

Living Trust

A Living Trust is a legal document a person creates during their lifetime. They (the Grantor) let someone else (the Trustee) manage their assets. The Trustee manages assets for the person who will get the assets from the trust (the Beneficiary). A Living Trust allows the easy transfer of assets. A Living Trust lets assets bypass the probate process. (Probate is a legal process. Courts manage how property is given out after a person has died. The probate process can be long and confusing.) The Beneficiary gets the assets in the Trust when the Grantor dies.

A trust lets one person manage the assets or money for another person. There are three parties involved in a Living Trust:

- The **Grantor** is the person who funds the Trust;
- The **Trustee** is the person who manages the Trust;
- The **Beneficiary** is the person who gets the benefits from the Trust assets.

How Does a Living Trust Work?

A Trustee manages a Living Trust. The Trustee has a duty to manage the Trust in the best interest of the Beneficiary. When the Grantor dies, the assets go to the Beneficiary. This happens by the terms stated in the Trust. A Living Trust is in effect when the Grantor is alive. This way, it does not have to go through the courts after the Grantor dies.

Two Types of Living Trusts

Living Revocable Trust -- The Grantor can make themselves the Trustee. This lets them control the assets in the Trust. The Grantor has the power to change the Trust rules at any time.

Irrevocable Living Trust -- The Grantor gives up some control over the Trust. The Trustee effectively becomes the legal owner. The Grantor can not do much to amend the Trust once it is created.

Creating a Living Trust in North Carolina

North Carolina has a complex probate process. A Living Trust may be a good idea if you want to avoid it. It is possible to create a Living Trust without a lawyer. But working with a lawyer will make sure the Living Trust is created correctly. All Living Trusts must say what assets are included, who the Trustee is, and who the Beneficiary is. They also must be signed in front of a notary public.

Resources

You may find a notary near you in North Carolina on the [Secretary of State website](https://www.sosnc.gov/online_services/notary/find_a_notary) (https://www.sosnc.gov/online_services/notary/find_a_notary).

There is usually a small fee for a notary (less than \$10).

You may find a lawyer through the [NC Bar Association](https://www.ncbar.org/public-resources/find-an-nc-lawyer/find-a-lawyer/) (<https://www.ncbar.org/public-resources/find-an-nc-lawyer/find-a-lawyer/>), or through Life Plan Trust by calling 919-589-0017 or (toll free) 888-301-0799 or by emailing Lifeplan1@lifeplantrust.org.

Getting Started with a Living Trust

Step 1. To see if a Living Trust is right for you, identify what assets you have. For example: property you own, items of high monetary value that you own, life or disability insurance policies in your name, savings, or other investment accounts.

Step 2. Decide if you want to work with a lawyer.

Step 3. Find a lawyer. You may already have a personal lawyer, or you can find a lawyer through your bank, your insurance broker, the NC Bar Association (see Resources, above), or Life Plan Trust (see Resources, above).

Special Needs Trust

A Special Needs Trust is a type of trust. It is for someone with a disability. This type of trust gives people with disabilities income. It lets them have this income while keeping their needs-based public benefits. (This may be Supplemental Security Income (SSI) and/or Medicaid benefits.)

How Does a Special Needs Trust Work?

A Special Needs Trust lets you give assets to a person with a disability. A Special Needs Trust will then own the assets. This Trust lets the person keep their public benefits while getting assets.

A trust lets one person manage assets or money for another person. There are three parties involved in a Special Needs Trust:

- The **Grantor** is the person who funds the Trust;
- The **Trustee** is the person who manages the Trust. This can be anyone except the person with a disability;
- The **Beneficiary** is the person who receives the assets. In a Special Needs Trust, this is the person with a disability.

The Trustee cannot give money directly to the Beneficiary. The Trustee can spend the money to buy goods and services. Special Needs Trust funds are often used to pay for personal care, vacations, home goods, medical and dental costs, and school, among other things.

Two Types of Special Needs Trusts

There are two types of Special Needs Trusts. They are self-settled and third-party. You should know which you need. The most common type is a third-party Trust. Families often set these up for their children. You may [read more about the differences between Trust types](https://www.specialneedsalliance.org/the-voice/two-different-types-of-special-needs-trusts/) on the Special Needs Alliance website (<https://www.specialneedsalliance.org/the-voice/two-different-types-of-special-needs-trusts/>).

Setting Up a Special Needs Trust

Special Needs Trusts can be complex. State-specific rules may apply. It is important that you make your Special Needs Trust carefully. Talking with a lawyer is highly recommended.

There is no exact amount of money needed to set up a Special Needs Trust. Experts suggest starting the trust at \$100,000. This is because of the costs to set up and maintain the trust. Speak with a financial planner if you have questions.

Resources

[Disability Rights North Carolina's guide to Special Needs Trusts](https://adanc.org/wp-content/uploads/2018/08/Special-Needs-Trusts.pdf)
(<https://adanc.org/wp-content/uploads/2018/08/Special-Needs-Trusts.pdf>)

[Center for Future Planning](https://futureplanning.thearc.org/) (<https://futureplanning.thearc.org/>)

[Life Plan Trust](https://lifeplantrust.org/) (<https://lifeplantrust.org/>) Phone: 919-589-0017 or 888-301-0799;
Email: Lifeplan1@lifeplantrust.org

Getting Started with a Special Needs Trust

Step 1. Optional: Read more about Special Needs Trusts in Disability Rights North Carolina's guide (see Resources, above).

Step 2. Contact a person at Life Plan Trust or the Center for Future Planning (see Resources, above).

Power of Attorney

A Power of Attorney (POA) is a legal document. It gives someone (the Agent) the right to make choices for someone else (the Principal). The Agent may have broad or narrow legal power. This depends on what is outlined in the POA. A POA is often used when someone has a disability or illness. It allows you to give someone you trust the right to make choices for you.

General Power of Attorney

A general Power of Attorney grants wide legal power. The Agent has power in many different areas. This may include handling money for you. It could also include buying life insurance or hiring professional help. The Agent can act on many things. A general POA is useful if you cannot manage your affairs. A general Power of Attorney ends if:

- the Principal becomes incapacitated or dies;
- the Principal revokes it;
- a court says it is not valid; or
- something happens to the Agent.

A general Power of Attorney ends if the Principal becomes incapacitated. A durable Power of Attorney does not. A durable POA remains in effect even if the Principal is incapacitated.

Durable Power of Attorney

A durable Power of Attorney is a POA that has a durability clause. This means it is valid even if the Principal becomes disabled. This could happen because of an injury or illness. A durable POA remains in effect until the Principal cancels it or dies. It may also end if a court finds that it is not valid.

Durable POAs are used to plan for emergencies. They can also help plan for a loss of mental functioning. There are two main types of durable POA. They are **Financial Power of Attorney** and **Healthcare Power of Attorney**. A Financial POA gives your Agent power to manage your financial affairs. A Healthcare POA allows your Agent to make medical choices for you.

The type of POA you need is based on your wants. You may want a general POA or a durable POA. It is important to know what kind of power you want to give your Agent. You should also talk to your Agent about your wants and needs.

How to Create a Power of Attorney

There are a few rules for how to create a Power of Attorney. Your POA must be written and signed by you. Two witnesses must watch you sign it. It also must be notarized. A witness is an adult who sees you sign the POA. They could be your friend, your neighbor, or even a stranger. You can find a notary near you through the Secretary of State's website (see Resources, below).

If you have questions about the law, talk to a lawyer.
You may also want to work with a lawyer to create your POA.

You should give a copy of your POA to your Agent. You may also want to give a copy to the county register of deeds office in North Carolina. A durable POA must be given to the county register of deeds where it will be used.

Resources

Read about the difference between Durable and General (Regular) POA (<https://www.legalzoom.com/articles/whats-the-difference-between-a-durable-and-a-regular-power-of-attorney/>).

Durable Power of Attorney form (<https://eforms.com/power-of-attorney/nc/north-carolina-durable-power-of-attorney/>)

General (Regular) Power of Attorney form (<https://eforms.com/power-of-attorney/nc/north-carolina-general-power-of-attorney/>)

You may find a notary near you in North Carolina on the Secretary of State website (https://www.sosnc.gov/online_services/notary/find_a_notary/). There is usually a small fee for a notary (less than \$10).

Getting Started with Durable/General Power of Attorney

- Step 1. Choose who you would like to be your Agent(s) and talk to them.
- Step 2. Decide if you would like a Durable or a General (Regular) POA.
- Step 3. Fill out the Durable or General (Regular) POA form (see Resources, above).
- Step 4. Find a Notary. You can find a Notary at your bank, UPS Stores, public libraries, real estate agencies, law firms, or at the Secretary of State website (see Resources, above).
- Step 5. Sign the document in front of two witnesses plus the notary.
- Step 6. Give a copy of your signed, notarized document to your Agent(s).
- Step 7. File a copy of your signed, notarized document with your County Register of Deeds.

Healthcare Power of Attorney

A Healthcare Power of Attorney (Healthcare POA) is a legal tool. You can let someone make medical choices for you if you are unable. That person, called an Agent, only makes choices for you if you cannot make your own. Your Healthcare POA will tell your Agent what kind of medical care you want. A **Living Will** can tell your Agent about the end-of-life care you would like. A Living Will can be used with a Healthcare POA. Like a Healthcare POA, a Living Will is only used if you cannot make your own choices.

Why Have a Healthcare POA?

A Healthcare POA makes sure that your wishes about medical care are honored. Your choices are followed even if you cannot tell the doctors yourself. Having a Healthcare POA makes sure that someone you trust will make medical choices for you if you are unable. They only make choices for you if you are unable.

What Kind of Choices Can My Agent Make?

Your Agent can make many kinds of choices. These may include:

- checking you in or out of a hospital or nursing home
- what medicine or treatments you get
- who has access to your medical records

Your Agent will only be able to make these choices for you if you are unable. They must follow your wishes when doing so.

Who Can Be My Agent?

Your Agent can be anyone over 18 years old. They cannot be your doctor or healthcare provider. They can be your family member, friend, or any other trusted adult. You can choose more than one Agent if you want. Two Agents can act as co-Agents. Co-Agents mean they work as equals. They could also act as successive Agents. This means that the second person will serve if the first cannot. It would help if you talked to your Agent(s) about your care choices. You should also make sure that they will make choices for you even if it may be hard.

How to Create a Healthcare POA

Because this is a legal document, there are a few rules for creating a Healthcare POA. Your Healthcare Power of Attorney must be written and signed by you. You have to create it while you are still well enough to make healthcare choices. Two witnesses must watch you sign the document. It must also be notarized. A witness is an adult who sees you sign it. They could be your friend, your neighbor, or even a stranger.

Getting it Notarized

You may find a notary near you in North Carolina through the Secretary of State website (see Resources, below).

It would help if you talked with those close to you about the care you want. Your doctor or healthcare provider can answer medical questions. If you have questions about the law, you should talk to a lawyer. Once your Healthcare POA is complete, you may want to give a copy of the document to your Agent. You also may want to give a copy to your doctors and anyone else you trust.

Resources

NC Healthcare POA Form and How-To Guide (<https://eforms.com/power-of-attorney/nc/north-carolina-health-care-power-of-attorney/>)

You may find a notary near you in North Carolina through the Secretary of State website (https://www.sosnc.gov/online_services/notary/find_a_notary). They usually charge a small fee (less than \$10).

Getting Started with Healthcare Power of Attorney

Step 1. Choose who you would like to be your Agent(s) and talk to them.

Step 2. Fill out the NC Healthcare POA form (see Resources, above).

Step 3. Find a Notary. You can find a Notary at your bank, UPS Stores, public libraries, real estate agencies, law firms, or at the NC Secretary of State website (see Resources, above).

Step 4. Sign the document in front of two witnesses plus the notary.

Step 5. Give a copy of your signed, notarized document to your Agent(s) and your healthcare provider.

Living Will

A Living Will lets a person state the end-of-life medical care they want. It is also called an Advance Directive. A Living Will is useful if a person becomes unable to communicate their wishes. It has no power after death.

How Does a Living Will Work?

A Living Will gives information about the end-of-life care someone wants. It is useful when a person becomes ill and cannot tell family members or doctors themselves. Without it, family members and doctors do not know what kind of care someone wants.

Many states have their own form for a Living Will. A person may state their wishes in as much detail as they want. The person should give it to their doctors and their Healthcare Power of Attorney. A person can cancel their Living Will if they want.

Living Will & Healthcare Power of Attorney

Living Wills and Healthcare Powers of Attorney are often made at the same time. A Healthcare Power of Attorney lets someone make healthcare choices for another person. This is only if the person is unable to make their own choices. These choices include those wishes stated in a Living Will.

You can also give your healthcare providers more information about your desired end-of-life care. You may want to complete a Medical Order for Scope of Treatment (MOST) or a Do Not Resuscitate (DNR) form as well. You can find those forms on the NC DHHS website (see Resources, below).

Living Will in North Carolina



In North Carolina, a Living Will is called an Advance Directive for a Natural Death. North Carolina has state-specific requirements. Talking to a lawyer is recommended. The North Carolina form must be signed in front of two witnesses. It also must be notarized. You may find a notary near you through the Secretary of State website (see Resources, below).

Resources

The [North Carolina Advance Directive form](https://www.sosnc.gov/forms/by_title/_advance_healthcare_directives) can be found on the [Secretary of State website](https://www.sosnc.gov)

(https://www.sosnc.gov/forms/by_title/_advance_healthcare_directives).

You can also access the form [as a PDF here](https://www.sosnc.gov/documents/forms/advance_healthcare_directives/advance_directive_for_a_natural_death.pdf)

(https://www.sosnc.gov/documents/forms/advance_healthcare_directives/advance_directive_for_a_natural_death.pdf).

You may find a notary near you in North Carolina through [the Secretary of State website](https://www.sosnc.gov/online_services/notary/find_a_notary) (https://www.sosnc.gov/online_services/notary/find_a_notary).

They usually charge a small fee (less than \$10).

Medical Order for Scope of Treatment (MOST) and Do Not Resuscitate (DNR) forms may be found on the [NC DHHS website](https://info.ncdhhs.gov/dhsr/EMS/dnrmost.html)

(<https://info.ncdhhs.gov/dhsr/EMS/dnrmost.html>).

Getting Started with a Living Will

Step 1. Choose which life-sustaining, life support, and end-of-life care medical treatment options you prefer.

Step 2. Fill out the Advance Directive form (see Resources, above).

Step 3. Find a Notary. You can find a Notary at your bank, UPS Stores, public libraries, real estate agencies, law firms, or at the Secretary of State website (see Resources, above).

Step 4. Sign the document in front of two witnesses plus the notary.

Step 5. Give a copy of your signed, notarized document to your healthcare agent if you have one, your doctor, and your local hospital.

Psychiatric Advance Directive (Advance Instruction for Mental Health Treatment)

A Psychiatric Advance Directive (PAD) is a legal tool. It lets mental health doctors know what kind of treatment you would want in a crisis. In North Carolina, it is called an Advance Instruction for Mental Health Treatment.

PADs give you a say in your treatment. They allow you to agree to or to decline future psychiatric treatment. You may also pick someone you trust to make choices for you in a crisis. These choices are based on what you put in your PAD. You should make your PAD when you are well enough to choose what you want for future treatment. PADs serve as a reference. If you become unable to make decisions during a crisis, your PAD is used.

There has been research done on the pros of PADs. It has shown that people with a PAD tend to have:

- great improvement in the relationship with their doctors,
- fewer unwanted crisis interventions,
- better correlation between preferred and prescribed medications over time, and
- a greater feeling that their personal needs for mental health services are being met

(Swanson et al., 2006a; 2008; Wilder et al., 2012)

When Are PADs Used?

A PAD goes into effect when a person cannot make decisions. A doctor decides this. Some examples of when a person may not make decisions include active states of psychosis, mania, delirium, or unconsciousness. You may use a PAD with a Healthcare Power of Attorney.

Doctors must follow a person's PAD. There are a few times when a doctor cannot follow a PAD. These include if the PAD has something that is not standard care, if what is wanted is not possible, if there is an emergency, and safety issues.

PADs are only used temporarily. They are not always used. They are only for when a person is not able to make choices about their treatment. Once the person can make choices again, the PAD is no longer used.

Advance Instruction for Mental Health Treatment in North Carolina



In North Carolina, a PAD is called an Advance Instruction for Mental Health Treatment. It allows you to consent to treatment in advance. It allows you to say what care you want during a crisis. This may include medications. It may also include what hospital you prefer.

Any adult who is well enough to think about their future mental health treatment choices can make one. It is a legal document. You must sign it in front of two witnesses. It must also be notarized. A witness is an adult who sees you sign the document. They could be your friend, your neighbor, or even a stranger.

You should talk to people close to you about the healthcare you want.
Your doctor can answer medical questions that you may have.
If you have questions about the law, you should talk to a lawyer.

Resources

The official NC PAD form can be found on the Secretary of State website (https://www.sosnc.gov/forms/by_title/_advance_healthcare_directives).

You can also access the form as a PDF here (https://www.sosnc.gov/documents/forms/advance_healthcare_directives/advance_instruction_for_mental_health.pdf).

The National Resource Center on Advanced Psychiatric Directives offers Frequently Asked Questions about PAD in North Carolina (<https://nrc-pad.org/states/north-carolina-faq/>).

You may find a notary near you in North Carolina through the Secretary of State website (https://www.sosnc.gov/online_services/notary/find_a_notary). They usually charge a small fee (less than \$10).

Getting Started with Psychiatric Advance Directive

Step 1. Consider what treatment(s) you would and would not want during a mental health crisis.

Step 2. Fill out the PAD form (see Resources, above).

Step 3. Find a Notary. You can find a Notary at your bank, UPS Stores, public libraries, real estate agencies, law firms, or at the Secretary of State website (see Resources, above).

Step 4. Sign the document in front of two witnesses plus the notary.

Step 5. Give a copy of your signed, notarized form to your mental health care provider.

**If you would like to provide feedback
about this booklet, please complete
this short survey.
(<https://forms.office.com/r/xKniejPi7d>)**

